

# **HOUSE . . . . . No. 1655**

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By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty relative to establishing paternity and the collection and enforcement of child support. The Judiciary.

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## **The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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### **AN ACT RELATIVE TO ESTABLISHING PATERNITY.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     Section 11 of Chapter 209C of the General Laws as appearing in  
2 the 2004 Official Edition is hereby amended by inserting at the end  
3 there of the following new sections:—

4       (e) The commissioner of revenue in conjunction with the commis-  
5 sioner of the department of public health shall promulgate regula-  
6 tions for uniform procedures for providing information to the mother  
7 and putative father regarding the benefits and responsibilities of  
8 parentage and the taking of acknowledgments of parentage at hospi-  
9 tals pursuant to Section 3C of Chapter 46 and this chapter, at the  
10 clerk of the city or town's office or by other agencies or departments  
11 and the IV-D agency employees pursuant to Sections 2, 5B and 11 of  
12 this chapter.

13     (f) Before a written voluntary acknowledgment of parentage is  
14 executed by the putative father and the mother of a child, genetic  
15 marker testing shall be performed to determine whether the putative  
16 father is the child's father and the results of said testing shall have  
17 been made available to the parties unless the mother and putative  
18 father have executed a voluntary acknowledgment of parentage with  
19 a notarized waiver of genetic marker testing which indicates that:—

20       (1) the party was offered genetic marker testing and declined to  
21 have genetic testing performed before signing an acknowledgment  
22 of parentage;

23       (2) the party understands that an acknowledgment of parentage is  
24 the same as a court judgment adjudicating paternity; and

25       (3) the party understands that a man who has been adjudicated the  
26 father of a child will be responsible for the child's support until the  
27 child's emancipation unless he seeks relief from judgment or  
28 rescinds the acknowledgment as set forth in preceding paragraphs.

29       (g) Acknowledgment of parentage forms shall be promulgated by  
30 the commissioner of revenue in conjunction with the commissioner  
31 of the department of public health with additional information to be  
32 provided to the parties of the legal rights and responsibilities created  
33 by an acknowledgment of parentage, which shall include, but not be  
34 limited to the following:—

35       (1) the availability of genetic marker testing which can be per-  
36 formed before signing an acknowledgment of parentage form;

37       (2) the opportunity to seek advice from an attorney (at the party's  
38 own expense) before signing the acknowledgment of parentage even  
39 if the party or child receives public assistance;

40       (3) the benefits of genetic marker testing in promoting a child's  
41 best interests;

42       (4) statements explaining that an acknowledgment of parentage  
43 creates a permanent father and child relationship even if the  
44 acknowledgment is made out of court, it is the same as a final court  
45 judgment declaring the man the father of a child;

46       (5) statements explaining the consequences of making an  
47 acknowledgment of parentage and how to rescind an acknowledg-  
48 ment as well as set aside a judgment of parentage; or

49       (6) statements indicating how to obtain genetic marker testing  
50 through the IV-D agency and the costs of such genetic marker  
51 testing.

52       (h) If the mother and/or putative father is a minor child under the  
53 age or eighteen; he or she may voluntarily acknowledge parentage  
54 but only if:—

55       (1) genetic marker testing has been performed and the results of  
56 such testing indicate a probability of paternity over 95% for the  
57 putative father; or

58       (2) the acknowledgment is executed in a proceeding under this  
59 chapter where the minor is either represented by counsel or the court  
60 after a hearing determines that: (a) the minor father and/or minor  
61 mother was provided the opportunity to submit to genetic marker  
62 testing through the IV-D agency; and (b) the minor(s) file a written  
63 notarized waiver of such testing in the case; and (c) the minor or

64 minor(s) were informed that the acknowledgment of parentage can  
65 only be challenged on the basis of duress, fraud, or mistake within a  
66 year after it is appropriate when an acknowledgment signed by a  
67 minor parent is filed with the court.

68 (i) Nothing in this section shall affect the validity of an acknowledg-  
69 edgment signed before the effective date of sections 11e-1 of chapter  
70 209C.